UNITED STATES DEPARTMENT OF COMMERCE BUREAU OF EXPORT ADMINISTRATION WASHINGTON, D.C. 20230

In the Matter of:	
REPUBLIC-LAGUN MACHINE TOOL COMPANY)
1000 E. Carson Street)
Carson, California 90749-4586,)
)
Respondent)

<u>ORDER</u>

The Office of Export Enforcement, Bureau of Export Administration, United States

Department of Commerce (BXA), having notified Republic-Lagun Machine Tool Company

(Republic-Lagun) of its intention to initiate an administrative proceeding against it pursuant to

Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app.

§§ 2401-2420 (1991 & Supp. 1998)) (the Act),¹ and the Export Administration Regulations

(currently codified at 15 C.F.R. Parts 730-774 (1997)) (the Regulations),² based on allegations

that, on or about May 15, 1993, Republic-Lagun exported a Lagunmatic VMC-1200

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), and August 13, 1997 (62 Fed. Reg. 43629 (August 15, 1997)), continued the Regulations in effect under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

² The alleged violations occurred in 1993. The Regulations governing the violations at issue are found in the 1993 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to the matters set forth in this Order.

machining center with a Fanuc 11M CNC controller from the United States to the People's Republic of China without obtaining the validated license that Republic-Lagun knew or had reason to know was required by Section 772.1(b) of the former Regulations, in violation of Sections 787.4(a) and 787.6 of the former Regulations; and

BXA and Republic-Lagun having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$20,000 is assessed against Republic-Lagun, which shall be paid within 30 days of the date of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1998)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, Republic-Lagun will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, as authorized by Section 11(d) of the Act, the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Republic-Lagun. Accordingly, if Republic-Lagun should fail to pay in a timely manner the civil penalty set forth above, the undersigned will enter an Order under the authority of Section 11(d) of the

Act denying all of Republic-Lagun's export privileges for a period of one year from the date of this Order.

FOURTH, that the proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.

F. Amanda DeBusk
Assistant Secretary for Export Enforcement

Entered this 15 = 100 day of 1998

UNITED STATES DEPARTMENT OF COMMERCE BUREAU OF EXPORT ADMINISTRATION WASHINGTON, D.C. 20230

In the Matter of:	
REPUBLIC-LAGUN MACHINE TOOL COMPANY 1000 E. Carson Street Carson, California 90749-4586,	
Respondent	_,

SETTLEMENT AGREEMENT

This Agreement is made by and between Republic-Lagun Machine Tool Co. (Republic-Lagun) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1997)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act).

¹ The alleged violations occurred in 1993. The Regulations governing the violations at issue are found in the 1993 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to the matters set forth in this Settlement Agreement.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), and August 13, 1997 (62 Fed. Reg. 43629 (August 15, 1997)), continued the Regulations in effect under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

Whereas, the Office of Export Enforcement, Bureau of Export Administration (BXA), has notified Republic-Lagun of its intention to initiate an administrative proceeding against it pursuant to the Act and the Regulations, based on allegations that, on or about May 15, 1993, Republic-Lagun exported a Lagunmatic VMC-1200 machining center with a Fanuc 11M CNC controller from the United States to the People's Republic of China without obtaining the validated license that Republic-Lagun knew or had reason to know was required by Section 772.1(b) of the former Regulations, in violation of Sections 787.4(a) and 787.6 of the former Regulations;

Whereas, Republic-Lagun has reviewed the proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; it fully understands the terms of this Settlement Agreement and the proposed Order; it enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

Whereas, Republic-Lagun neither admits nor denies the allegations contained in the proposed Charging Letter;

Whereas, Republic-Lagun wishes to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

Whereas, Republic-Lagun agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

Now Therefore, Republic-Lagun and BXA agree as follows:

- 1. BXA has jurisdiction over Republic-Lagun, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.
- 2. BXA and Republic-Lagun agree that the following sanction shall be imposed against Republic-Lagun in complete settlement of all alleged violations of the Act and the former Regulations arising out of the transactions set forth in the proposed Charging Letter:
 - (a) Republic-Lagun shall be assessed a civil penalty of \$20,000, which shall be paid within 30 days of the date of entry of an appropriate Order;
 - (b) As authorized by Section 11(d) of the Act, the timely payment of the civil penalty agreed to in paragraph 2(a) is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Republic-Lagun. Failure to make timely payment of the civil penalty shall result in the denial of all of Republic-Lagun's export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.
- 3. Republic-Lagun agrees that, subject to the approval of this Settlement
 Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural
 steps in this matter (except with respect to any alleged violation of this Settlement Agreement
 or the appropriate Order, when entered), including, without limitation, any right: (a) to an
 administrative hearing regarding the allegations in the proposed Charging Letter;
 (b) to request a refund of the civil penalty imposed pursuant to this Settlement Agreement and
 the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the
 validity of this Settlement Agreement or the appropriate Order, when entered.

- 4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against Republic-Lagun in connection with any violations of the Act or the Regulations arising out of the transaction identified in the proposed Charging Letter.
- 5. Republic-Lagun understands that BXA will make the proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.
- 6. BXA and Republic-Lagun agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(a) of the Regulations, BXA and Republic-Lagun agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.
- 7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION U.S. DEPARTMENT OF COMMERCE

REPUBLIC-LAGUN MACHINE TOOL COMPANY

Mark D. Menefee
Acting Director
Office of Export Enforcement

Date: 5/13/98

Norbert Toubes
President

Date: 5/8/98

UNITED STATES DEPARTMENT OF COMMERCE Bureau of Export Administration

Washington, D.C. 2023C

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Republic-Lagun Machine Tool Co. 1000 E. Carson Street Carson, California 90749-4586

Attention: Norbert Toubes

President

Dear Mr. Toubes:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below, Republic-Lagun Machine Tool Co. (Republic-Lagun) has violated the Export Administration Regulations (15 C.F.R. Parts 730-774 (1997)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1997)) (the Act).

Facts constituting violations:

Charges 1-2

On or about May 15, 1993, Republic-Lagun exported a Lagunmatic VMC-1200 machining center with a Fanuc 11M CNC controller from the United States to the People's Republic China without obtaining the validated license that Republic-Lagun knew or had reason to know was required by Section 772.1(b) of the former

The alleged violations occurred in 1993. The Regulations governing the violations at issue are found in the 1993 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, 15 C.F.R. Parts 730-774 (1997), establish the procedures that apply to the matters set forth in this charging letter.

The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1997)).

Regulations. BXA alleges that, by exporting U.S.-origin commodities to any person or to any destination in violation of or contrary to the provisions of the Act or any regulation, order, or license issued thereunder, Republic-Lagun violated Section 787.6 of the former Regulations. BXA also alleges that, by selling or transferring commodities exported or to be exported from the United States with knowledge or reason to know that a violation of the Act or any regulation, order, or license issued thereunder occurred, was about to occur, or was intended to occur, Republic-Lagun violated Section 787.4(a) of the former Regulations.

BXA alleges that Republic-Lagun committed one violation each of Sections 787.4(a) and 787.6, for a total of two violations of the former Regulations, each of which involves commodities controlled under Section 5 of the Act for national security reasons.

Accordingly, Republic-Lagun is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$10,000 per violation or, for a violation of national security controls, \$100,000 per violation (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (\underline{see} Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice (\underline{see} Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If Republic-Lagun fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Republic-Lagun is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a settlement.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, Republic-Lagun's answer should be

filed with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of Republic-Lagun's answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Mi-Yong Kim, Esq." below the address. Ms. Kim may be contacted by telephone at (202) 482-5311.

Sincerely,

Mark D. Menefee Acting Director Office of Export Enforcement

Enclosures

FOR IMMEDIATE RELEASE: May 13, 1998 www.bxa.doc.gov CONTACTS: Eugene Cottilli Susan Hofer (202) 482-2721

REPUBLIC-LAGUN MACHINE TOOL CO. PENALIZED \$20,000 TO SETTLE CHARGE OF AN ILLEGAL EXPORT TO THE PRC

WASHINGTON -- The Commerce Department today imposed a \$20,000 civil penalty on Republic-Lagun Machine Tool Co. of Carson, Calif., to settle allegations that it violated the Export Administration Act and Regulations in connection with its 1993 export of a vertical milling machine with a computer numerical controller (CNC) to the People's Republic of China (PRC). Commerce Assistant Secretary for Export Enforcement F. Amanda DeBusk made the announcement today.

The Department's Bureau of Export Administration (BXA) alleged that Republic-Lagun exported the vertical milling machine to the PRC without obtaining the export license that it knew was required. Exports of CNC-equipped milling machines to the PRC are controlled for national security and nuclear nonproliferation reasons. BXA's Office of Export Enforcement Los Angeles Field Office conducted the investigation.

The Commerce Department, through its Bureau of Export Administration, controls and licenses exports and reexports of dual-use commodities, technology and software for reasons of national security, foreign policy, nonproliferation and short supply. Criminal penalties, as well as administrative sanctions, can be imposed for violations of the regulations.